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Gurpreet Ahluwalia

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EXAMINER

ROBINSON BOYCE, AKIBA K

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* GURPREET S. AHLUWALIA
9

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11 Appeal 2009-000442
12 Application 09/542,413
13 Technology Center 3600
14

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16 Decided: October 23, 2009
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19 Before HUBERT C. LORIN, ANTON W. FETTING, and JOSEPH A.
20 FISCHETTI, *Administrative Patent Judges*.
21 FETTING, *Administrative Patent Judge*.

22 DECISION ON APPEAL

1 STATEMENT OF THE CASE

2 Gurpreet S. Ahluwalia (Appellant) seeks review under 35 U.S.C. § 134
3 (2002) of a final rejection of claims 1-41, the only claims pending in the
4 application on appeal.

5 We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b)
6 (2002).

7 SUMMARY OF DECISION¹

8 We AFFIRM.

9 THE INVENTION

10 The Appellant invented a way of reporting orders for consumer product
11 having specific configurations (Specification 1:5-6).

12 An understanding of the invention can be derived from a reading of
13 exemplary claim 1, which is reproduced below [bracketed matter and some
14 paragraphing added].

15 1. An online system for generating reports related to
16 manufactured consumer product online orders, comprising:

17 [1] at least one presentation application operable to

18 [1a] capture user online session data including

19 a presentation application identifier,

¹ Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed December 15, 2005) and the Examiner's Answer ("Ans.," mailed March 13, 2008).

1 session identifier,
2 user data,
3 user click stream data, and
4 manufactured product configurations
5 selected by the user,
6 [1b] and generate a session report message incorporating
7 the user online session data;
8 [2] a web server
9 in communication with the presentation application and
10 operable to receive the session report message; and
11 [3] a report processor operable to receive the session report
12 message, and storing [sic] the user online session data in a
13 report database;
14 wherein the report processor is operable to generate a
15 report related to manufactured product online orders,
16 based on at least a portion of the information stored in the
17 report database.

18 THE REJECTIONS

19 The Examiner relies upon the following prior art:

Cathey	US 5,778,182	Jul. 7, 1998
Brown	US 5,794,219	Aug. 11, 1998
Bezos	US 6,029,141	Feb. 22, 2000
Sutcliffe	US 6,073,105	Jun. 6, 2000
Brandt	US 6,377,993 B1	Apr. 23, 2002

20 Claims 1, 4, 5, 8, 14-18, 20, 29, 30, 31, 33, and 34 stand rejected under
21 35 U.S.C. § 103(a) as unpatentable over Bezos.

1 Claims 3, 19, 32 stand rejected under 35 U.S.C. § 103(a) as unpatentable
2 over Bezos and Cathey.

3 Claims 2, 6, 7, 9, 10, 22, 23, 27, 28, 36, 37, 40, and 41 stand rejected
4 under 35 U.S.C. § 103(a) as unpatentable over Bezos and Brandt.

5 Claims 11, 26, 39 stand rejected under 35 U.S.C. § 103(a) as
6 unpatentable over Bezos and Sutcliffe.

7 Claims 12, 13, 21, 24, 25, 35, 38 stand rejected under 35 U.S.C. § 103(a)
8 as unpatentable over Bezos and Brown.

9 ARGUMENTS

10 The Appellant argues the independent claims 1, 14, and 29 as a group
11 and make no arguments supporting the dependent claims. Accordingly, we
12 select claim 1 as representative of the group. 37 C.F.R. § 41.37(c)(1)(vii)
13 (2008).

14 The Appellant contends that the Bezos fails to describe the claimed
15 limitation of a manufactured product configuration (App. Br. 5-7) and that
16 the Examiner has not used the motivation found by the Examiner to modify
17 Bezos to incorporate such a configuration (App. Br. 4-5).

18 The Examiner found that the products described by Bezos had such
19 configurations. Ans. 5: 16-17.

20 ISSUE

21 The issue of whether the Appellant has sustained its burden of showing
22 that the Examiner erred in rejecting the claims turns on whether Bezos

describes entering manufactured product configuration data or it would have been predictable to enter such data in a system such as that in Bezos.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to Claim Construction

01. The disclosure contains no lexicographic definition of “manufactured product configuration.”

02. The phrase “manufactured product configuration” is a noun “product” modified by the adjectival phrase “manufactured product.” The phrase “manufactured product” in turn is a noun “product” modified by the adjective “manufactured.” The plain meaning of “manufactured product configuration” is therefore the configuration of a manufactured product.

Facts Related to Appellant’s Disclosure

03. The disclosure admits that customers routinely entered manufactured product configuration data when ordering Dell computers at the time of filing. Spec. 3:31 – 4:9.

Facts Related to the Prior Art

Bezos

04. Bezos is directed to enabling a merchant to efficiently market and sell goods in cooperation with network sites of respective business partners, or “associates.” Bezos 1:50-61.

05. Associate catalog documents include product-specific hyperlinks that allow potential customers to link to the merchant's Web site to initiate purchases of such products from the merchant. Each referral link includes the unique ID of the associate (assigned upon enrollment) and the unique ID of the selected product. If the customer subsequently purchases the selected product from the merchant site (e.g., by filling out an order form page and submitting the order), the referral processing software automatically credits the referring associate for the referral by, for example, applying a commission to an account of the associate. Bezos 1:62 – 2:17.

06. The merchant site maintains a unified shopping cart data structure ("shopping cart") for each ongoing customer shopping session including at least: (i) the products that are currently selected by the customer for prospective purchase, and (ii) the referral source (if any) of each such product. To purchase the products represented within the shopping cart, the customer proceeds to a "check out" area of the merchant site and submits an order. Bezos 2:48-61.

07. The unique product identifier may be the ISBN number of a book. Bezos 7:26-29.

Facts Related to the Knowledge in the Art

08. Books are manufactured in a variety of configurations, including hard and soft cover. Ans. 17.

PRINCIPLES OF LAW

Obviousness

Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’

KSR Int’l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007).

In *Graham*, the Court held that that the obviousness analysis is bottomed on several basic factual inquiries: “[(1)] the scope and content of the prior art are to be determined; [(2)] differences between the prior art and the claims at issue are to be ascertained; and [(3)] the level of ordinary skill in the pertinent art resolved.” *Graham*, 383 U.S. at 17. *See also KSR*, 550 U.S. at 406. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

ANALYSIS

The Appellant takes issue with the Examiner’s finding that the unique product code such as a book’s ISBN number is a descriptor of a manufactured product configuration. The Appellant argues that books cannot be configured. App. Br. 6.

The disclosure contains no lexicographic definition of “manufactured product configuration.” The plain meaning is the configuration of a manufactured product.

The Examiner found that those of ordinary skill knew that books are manufactured and came in various configurations, such as soft cover and

1 hard cover. FF 08. We agree with the Examiner. Clearly books are
2 manufactured products that have such different configurations. Apparently
3 the Appellant means to say that books cannot be arbitrarily configured by a
4 customer, but none of the claims argued are this narrow. Instead the claims
5 argued have the customer select or submit a configuration. The scope thus
6 includes selecting or submitting configurations already made prior to the
7 customer's action, such as selecting or submitting the configuration of a
8 book. Thus, the Appellant's argument is not commensurate with the scope
9 of the claims.

10 In any event, the Examiner's essential point is that selecting different
11 configurations was well known and this is supported by the Appellant's
12 admitted prior art regarding Dell computers. FF 03. Thus, the provision of a
13 unique product code that specified the actual configured format of a book
14 met the limitation at issue. As to the motivation to selecting a configuration,
15 again the Examiner's point was that the practice was well established.

16 As no other limitations or claims were argued, this is dispositive as to all
17 of the rejections.

18 CONCLUSIONS OF LAW

19 The Appellant has not sustained its burden of showing that the Examiner
20 erred in rejecting claims 1, 4, 5, 8, 14-18, 20, 29, 30, 31, 33, and 34 under 35
21 U.S.C. § 103(a) as unpatentable over Bezos.

22 The Appellant has not sustained its burden of showing that the Examiner
23 erred in rejecting claims 3, 19, 32 under 35 U.S.C. § 103(a) as unpatentable
24 over Bezos and Cathey.

1 The Appellant has not sustained its burden of showing that the Examiner
2 erred in rejecting claims 2, 6, 7, 9, 10, 22, 23, 27, 28, 36, 37, 40, and 41
3 under 35 U.S.C. § 103(a) as unpatentable over Bezos and Brandt.

4 The Appellant has not sustained its burden of showing that the Examiner
5 erred in rejecting claims 11, 26, 39 under 35 U.S.C. § 103(a) as unpatentable
6 over Bezos and Sutcliffe.

7 The Appellant has not sustained its burden of showing that the Examiner
8 erred in rejecting claims 12, 13, 21, 24, 25, 35, 38 under 35 U.S.C. § 103(a)
9 as unpatentable over Bezos and Brown.

10 DECISION

11 To summarize, our decision is as follows.

- 12 • The rejection of claims 1, 4, 5, 8, 14-18, 20, 29, 30, 31, 33, and 34
13 under 35 U.S.C. § 103(a) as unpatentable over Bezos is sustained.
- 14 • The rejection of claims 3, 19, 32 under 35 U.S.C. § 103(a) as
15 unpatentable over Bezos and Cathey is sustained.
- 16 • The rejection of claims 2, 6, 7, 9, 10, 22, 23, 27, 28, 36, 37, 40, and 41
17 under 35 U.S.C. § 103(a) as unpatentable over Bezos and Brandt is
18 sustained.
- 19 • The rejection of claims 11, 26, 39 under 35 U.S.C. § 103(a) as
20 unpatentable over Bezos and Sutcliffe is sustained.
- 21 • The rejection of claims 12, 13, 21, 24, 25, 35, 38 under 35 U.S.C. §
22 103(a) as unpatentable over Bezos and Brown is sustained.

